

ISMAIL J. RAMSEY (CABN 189820  
United States Attorney

MARTHA BOERSCH (CABN 126569)  
Chief, Criminal Division

ERIC CHENG (CABN 274118)  
MOLLY K. PRIEDEMAN (CABN 302096)  
Assistant United States Attorneys

1301 Clay Street, Suite 340S  
Oakland, California 94612  
Telephone: (510) 637-3680  
FAX: (510) 637-3724  
Eric.Cheng@usdoj.gov  
Molly.Priedeman@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA, ) CASE NO. 4:24-CR-00406 YGR-1  
Plaintiff, )  
v. )  
FREDDIE LEE DAVIS III, )  
Defendant. )  
) **UNITED STATES' SENTENCING  
MEMORANDUM**  
)  
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1 **I. INTRODUCTION**

2 In June 2021, as the residents of the San Francisco Bay Area began to move past the height of  
3 the COVID-19 pandemic, Defendant Freddie Lee Davis III took part in a robbery crew in the East Bay  
4 focused on robbing people of Asian descent because they were “easy targets” who wouldn’t fight back.  
5 After victim Q.D. was robbed and her possessions were divvied up, Defendant and his codefendant Sene  
6 Malepeai were caught on camera fraudulently using Q.D.’s credit card—and when they were later  
7 arrested, they had Q.D.’s wallet and card on hand.

8 At the time of this incident, Defendant had already been arrested numerous times on violations  
9 involving resisting arrest, domestic violence related to his codefendant Sene Malepeai, and firearms.  
10 Since the incident, Defendant has been arrested more times for resisting arrest and battery, domestic  
11 violence, firearms, repeatedly violating a domestic violence court order, and driving with a suspended  
12 license (resulting in a misdemeanor conviction).

13 Following the federal charges in this case and Defendant’s release on bond, Defendant  
14 “immediately and blatantly” violated his conditions of release and was remanded to federal custody by  
15 Chief Magistrate Judge Donna M. Ryu.

16 Defendant has now pleaded guilty to wire fraud and aggravated identity theft, a violation that  
17 carries a two-year mandatory minimum sentence. The parties and United States Probation recommend  
18 that this Court sentence Defendant to 24 months and a day of imprisonment (above the Guidelines of  
19 zero to six months), followed by 3 years of supervised release with an order of restitution. Based on  
20 Defendant’s history and characteristics, as well as the nature and circumstances of Defendant’s serious  
21 offenses, the government recommends that the Court accept the parties’ binding plea agreement. This  
22 proposed sentence is sufficient, but not greater than necessary, to achieve the goals set forth in 18 U.S.C.  
23 § 3553(a)(2).

24 **II. BACKGROUND**

25 **A. Factual Background**

26 On June 17, 2021, San Leandro Police Department (SLPD) officers responded to a report of a  
27 robbery in the parking lot outside Costco, located at 1900 Davis Street in San Leandro, California. PSR  
28 ¶ 7. The victim of the robbery was an Asian female, identified as Q.D. *Id.*

1       The robbery occurred in the store's parking lot after she exited Costco with her mother. PSR ¶ 8.  
2 As she was walking to her vehicle, a car drove alongside her. *Id.* According to Q.D.'s statements to  
3 SLPD, an individual reached out of a rear window and grabbed hold of Q.D.'s purse from the moving  
4 car. *Id.* Q.D. held on to her purse and was dragged the width of several cars. *Id.* The car then sped  
5 away, and she let go of her purse. *Id.* When Q.D. released her grasp on the purse, she fell to the ground,  
6 resulting in bodily injuries, including abrasions to her leg and swelling on her hand. *Id.* Several  
7 witnesses heard Q.D. scream, heard her body hit the asphalt, and saw a black Honda speed away from  
8 the incident. *Id.*

9       Parts of the robbery were captured on Costco's surveillance cameras. PSR ¶ 9. The footage  
10 revealed that the suspect vehicle was a black Honda Accord, with a license plate number that was  
11 registered to Defendant. *Id.* The video surveillance footage captured the subject vehicle approaching  
12 Q.D. from behind. *Id.* It also captured the vehicle speeding away, and Q.D. falling to the ground.  
13 During the robbery, Q.D.'s purse was stolen, which included two cell phones, a PayPal MasterCard  
14 credit card, and approximately \$1,800 in cash. *Id.* In the days following the robbery, Q.D. noted nearly  
15 a dozen unauthorized transactions on her stolen credit card, including a \$98.78 charge at Foot Locker in  
16 San Leandro, California on June 19, 2021. *Id.*

17       Law enforcement obtained surveillance camera footage capturing purchases made at the San  
18 Leandro Foot Locker on June 19, 2021, during the time that Q.D.'s stolen credit card was utilized. PSR  
19 ¶ 10. The footage revealed on June 19, 2021, at 2:30 p.m., a male matching the description of  
20 Defendant and a female, identified as codefendant Sene Malepeai, approached the register. *Id.* Malepeai  
21 fraudulently purchased a pair of Nike Air Force 1 shoes for \$98.78 and charged them to Q.D.'s stolen  
22 credit card. *Id.* Malepeai then handed the credit card to Defendant, who placed the card inside his pant  
23 pocket. *Id.* Thereafter, the two individuals left the store. *Id.*

24       On June 24, 2021, SLPD detectives arrested Defendant while he was attempting to leave a  
25 parking lot in San Leandro in the same black Honda Accord that was used in the robbery at Costco.  
26 PSR ¶ 11. Malepeai was in the vehicle at the time of Defendant's arrest. *Id.* SLPD conducted a search  
27 of Defendant's car and recovered Q.D.'s wallet on the front passenger's floorboard, where Malepeai had  
28 been seated. SLPD also seized Q.D.'s stolen credit card from Defendant's person. PSR ¶ 12.

1           Audio recordings captured on June 24, 2021, and July 8, 2021, contained numerous statements  
 2 by Malepeai related to this incident and others. PSR ¶ 13. Malepeai stated that she was in a romantic  
 3 relationship with Defendant and that she was in the front passenger seat of Defendant's car during the  
 4 June 17, 2021, robbery at Costco. *Id.* She identified Defendant as the driver during the robbery. *Id.*  
 5 She identified the driver side rear passenger as R.T. and the passenger side rear passenger as E.S. *Id.*

6           Malepeai stated that the day of the robbery, Defendant, E.S., and R.T., had discussed going to  
 7 Chinatown to rob Asian women with purses or jewelry. PSR ¶ 14. Malepeai stated that they first drove  
 8 to Chinatown to look for Asians with purses, then went to a Walmart parking lot, and eventually ended  
 9 up at the San Leandro Costco. *Id.* Malepeai stated that she was aware that R.T. and E.S. preferred  
 10 robbing Asians because they talked about robbing Asians, and she had seen a news article about a  
 11 robbery of an Asian individual committed by R.T. *Id.* Malepeai stated that E.S. and R.T. like to rob  
 12 Asian females because they think they have more money, and because Asians are "easy targets" who  
 13 don't fight back. *Id.* Malepeai stated that the day of the robbery at Costco, they first tried to steal  
 14 another woman's purse in the parking lot, but when they approached the woman, she saw the car, and  
 15 pulled her purse away. PSR ¶ 15. Malepeai stated that when she saw Q.D., she knew that R.T. and E.S.  
 16 were going to want to rob her. *Id.* She further stated that it was E.S. who reached out the window and  
 17 grabbed Q.D.'s purse. *Id.*

18           **B. Procedural History**

19           Defendant was charged in a criminal complaint on June 30, 2023 with Wire Fraud in violation of  
 20 18 U.S.C. § 1343 and Aggravated Identity Theft in violation of 18 U.S.C. § 1028A. Dkt. No. 1.

21           Defendant was arrested on a federal warrant on August 24, 2023, and made his initial appearance  
 22 on the same date before the Honorable Donna M. Ryu, Chief Magistrate Judge. Dkt. No. 6; PSR ¶ 4.  
 23 Defendant was ordered released on a \$50,000 unsecured bond with U.S. Pretrial Services supervision  
 24 with special conditions, including a condition that the defendant "have no contact, directly or indirectly,  
 25 with any co-defendant outside of the presence of counsel. Davis may have contact with Malepeai only to  
 26 exchange their child." *Id.*

27           On August 31, 2023, the Court held a Bail Review hearing for Defendant, during which the  
 28 government renewed its motion for detention and moved to remand him. Dkt. No. 20; PSR ¶ 4. The

1 government's motion was based on surveillance evidence showing that Defendant violated his bail  
 2 conditions following his release, including Defendant showing up at Malepeai's residence in Oakley,  
 3 California, and departing the residence alone with Malepeai without their child. *Id.* The Court granted  
 4 the government's motion for detention remanded the Defendant, who had "immediately and blatantly  
 5 violated" his Court-ordered conditions of release. *Id.*

6 On September 25, 2023, Defendant filed a motion to reopen bail. Dkt. No. 36; PSR ¶ 4. The  
 7 government opposed the motion based on evidence that Defendant placed jail calls to Malepeai on  
 8 several occasions while he was in custody, including by using other inmates' PIN codes to appear as  
 9 somebody else and directing Malepeai to retrieve "burner" phones to communicate with him. Dkt. No.  
 10 37; PSR ¶ 4. On October 30, 2023, the Court denied Defendant's request for release and ordered him to  
 11 remain in custody. Dkt. No. 48; PSR ¶ 4.

12 On November 30, 2023, Defendant appealed Chief Judge Ryu's detention order and the  
 13 Honorable Richard Seeborg, Chief District Judge, denied Defendant's appeal on December 1, 2023.  
 14 Dkt. Nos. 52, 55; PSR ¶ 4.

15 On January 17, 2024, Defendant filed a second motion for a bail review, which the government  
 16 opposed and he ultimately withdrew. Dkt. Nos. 63, 70, 71; PSR ¶ 4.

17 The government filed an Information on the same charges as the criminal complaint on July 19,  
 18 2024. Dkt. No. 110. Defendant waived indictment and pleaded guilty pursuant to a plea agreement on  
 19 August 1, 2024. *See* Dkt. Nos. 112, 117, 118. Sentencing is set for October 24, 2024. *Id.*

20 **C. Criminal History**

21 By age 20, Defendant had been repeatedly arrested for various charges, including sex with a  
 22 minor three or more years younger (September 2016, Oakley Police Department); threatening with  
 23 intent to terrorize, obstruction of an officer (February 2017, Contra Costa County Sheriff); and  
 24 obstruction/resisting an officer (June 2018, Contra Costa County Sheriff).

25 Since then, Defendant has been arrested in numerous additional incidents involving domestic  
 26 violence against his codefendant Sene Malepeai and/or illegal firearm possession.

27 In July 2020, Defendant was arrested by the Oakley Police Department for obstruction/resisting  
 28 an officer and vandalism following a domestic disturbance involving Malepeai. PSR ¶ 41. After

1 Defendant was reported breaking windows in the house and yelling at people, he was observed holding a  
 2 crowbar by officers and attempted to run from them, struggling and resisting arrest. *Id.* After officers  
 3 placed Defendant inside a patrol vehicle, he kicked the window of the car and caused damage. *Id.*

4       In February 2021, Defendant was arrested by the Pittsburg Police Department for kidnapping,  
 5 inflicting corporal injury on cohabitant, carrying a loaded/unregistered handgun, illegally possessing a  
 6 weapon, and carrying a concealed weapon in vehicle. PSR ¶ 42. After Malepeai (visibly pregnant)  
 7 entered a store and asked to use the phone, Defendant was observed grabbing her, shoving her outside of  
 8 a store, and shoving her into his vehicle. *Id.* During a later traffic stop, Malepeai confirmed to officers  
 9 that she was involved in this domestic violence incident and Defendant was arrested with a backpack  
 10 containing a firearm. *Id.*

11       In June 2021, Defendant was arrested by the San Leandro Police Department for possessing a  
 12 firearm without a serial number, and robbery. PSR ¶ 51.

13       In July 2021, Defendant was arrested by the San Leandro Police Department for  
 14 obstruction/resisting an officer and battery following an incident at the police department in which  
 15 Defendant was yelling and screaming at staff, knocked over a pamphlet stand, resisted arrest by pulling  
 16 away and kicking his legs, and continued to be combative toward officers. PSR ¶ 43.

17       Also in July 2021, Defendant was arrested by the BART Police Department after he was  
 18 observed by police running after Malepeai, then ultimately holding her with his arm around her  
 19 shoulder/neck area. PSR ¶ 44. Defendant was placed under arrest as he had an active restraining order  
 20 from Malepeai. *Id.* The arresting officer observed visible injuries on Malepeai's neck area and bruising  
 21 near her throat, but Malepeai denied domestic violence and declined medical attention. *Id.*

22       In October 2021, Defendant was arrested by the Alameda County Sheriff's Office for violating a  
 23 court order to prevent domestic violence, giving false information to a peace officer, and driving with a  
 24 suspended license following a traffic stop of a vehicle containing Defendant and Malepeai in which  
 25 Defendant provided a false name while subject to a protective order from Malepeai. PSR ¶ 45.

26       Despite the above arrests, Defendant's only criminal conviction resulting in any Criminal  
 27 History Points at this time is a misdemeanor driving conviction following a traffic stop of him and  
 28 Malepeai in which the arresting officers found a pair of metal knuckles under several bags of marijuana.

1 With one Criminal History Point, Defendant falls under Criminal History Category I. *See* PSR ¶¶ 38–  
 2 40.

3 **D. Guidelines Calculation**

4 The government agrees with the Sentencing Guidelines calculation of the United States  
 5 Probation Office, which is consistent with the parties' plea agreement. PSR ¶¶ 24–35; 82. The base  
 6 offense level is 7, pursuant to U.S.S.G. § 2B1.1(a)(1); a two-level increase pursuant to U.S.S.G.  
 7 § 2B1.1(b)(3) applies because the offense involved theft from the person of another; and a two-level  
 8 reduction pursuant to U.S.S.G. § 3E1.1(a) applies based on Defendant's Acceptance of Responsibility,  
 9 resulting in a Total Offense Level of 7. *Id.* An offense level of 7 with a Criminal History Category I  
 10 yields an advisory sentencing range of 0 to 6 months of imprisonment. PSR ¶ 82.

11 **III. DISCUSSION**

12 **A. Applicable Law**

13 The Court should impose a sentence sufficient, but not greater than necessary, to reflect the  
 14 purposes of sentencing that Congress identified in 18 U.S.C. § 3553(a)(2). *United States v. Carty*, 520  
 15 F.3d 984, 991 (9th Cir. 2008). The Court should begin the process of determining an appropriate  
 16 sentence by calculating the correct sentencing range under the Guidelines. *Id.* After determining the  
 17 appropriate Guidelines calculation, the Court should then evaluate the sentence for substantive  
 18 reasonableness in light of the factors set out in Section 3553(a). *Carty*, 520 F.3d at 991–93.

19 Under 18 U.S.C. § 3553(a), in arriving at the appropriate sentence for the defendant, the Court  
 20 should consider these factors applicable to this case, among others:

- 21       (1) the nature and circumstances of the offense and the history and  
           characteristics of the defendant;
- 22       (2) the need for the sentence imposed to reflect the seriousness of the  
           offense, to promote respect for the law, and to provide just  
           punishment for the offense;
- 23       (3) the need for the sentence imposed to afford adequate deterrence to  
           criminal conduct;
- 24       (4) the need to avoid unwarranted sentence disparities among  
           defendants with similar records who have been found guilty of  
           similar conduct; and
- 25       (5) the need to provide restitution to any victims of the offense.

1                   **B. Recommendation**

2                   The government respectfully recommends that the Court accept the parties' binding plea  
3 agreement and impose a sentence of 24 months and a day of imprisonment—well above the Guidelines  
4 range of zero to six months of imprisonment and accounting for Defendant's conviction of a violation  
5 carrying a consecutive two-year mandatory minimum—followed by three years of supervised release,  
6 with an order of \$6,290.26 in restitution, based upon a consideration of the Guidelines and 18 U.S.C.  
7 § 3553(a) factors.

8                   As an initial matter, the parties' recommended sentence accounts for the nature and  
9 circumstances of the offenses in this case—Defendant's commission of fraud, aggravated identity theft,  
10 and the underlying conduct were serious crimes that victimized Q.D. and the community at large.  
11 Moreover, Defendant's history and characteristics support the parties' recommended sentence. As  
12 discussed above, Defendant's criminal history (CHC I for one misdemeanor conviction) understates his  
13 history of law enforcement contacts and arrests for domestic violence related to his codefendant and  
14 other significant charges that did not result in convictions. Defendant's conduct following his arrest in  
15 this case, including his immediate violation of his conditions of pretrial release resulting in his detention  
16 by the magistrate judge, also weighs in favor of a meaningful custodial sentence.

17                   The parties also recommend a three-year term of supervised release for Defendant. The  
18 government agrees with the conditions recommended in the PSR, including the expanded suspicionless  
19 search condition agreed to by the parties to serve the interests of specific deterrence and rehabilitation.  
20 In addition, the government recommends that the Court impose Probation's recommended "no contact"  
21 condition with codefendant Malepeai, except to exchange their shared children. This condition  
22 continues a bond requirement imposed by the magistrate judge prior to Defendant being remanded in  
23 this case. Importantly, the recommended condition addresses Defendant's history of domestic violence  
24 against Malepeai and restraining orders from her, accounts for Defendant's violative conduct in  
25 contacting Malepeai while he was briefly on pretrial release, and accounts for his conduct to circumvent  
26 court orders while in custody (placing jail calls to Malepeai using other inmates' PIN codes to appear as  
27 somebody else and directing her to retrieve "burner" phones). As this Court is aware, Malepeai has  
28 pleaded guilty pursuant to a plea agreement to participate in the LEADS program; all of her conditions

1 of pretrial release remain in effect, including the no-contact condition with Defendant except to  
2 exchange their children, and it would not be appropriate for Defendant to otherwise contact Malepeai  
3 while she participates in this program pursuant to those conditions of release.

4 Finally, these offenses involved a victim, Q.D., and Defendant should be ordered to pay  
5 \$6,290.26 in restitution to repay the losses caused by his criminal conduct in this case.

6 **IV. CONCLUSION**

7 For the foregoing reasons, the United States respectfully requests that the Court accept the  
8 parties' binding plea agreement and impose a sentence of 24 months and a day of imprisonment,  
9 followed by three years of supervised release with the parties' agreed-upon expanded suspicionless  
10 search condition and other conditions recommended in the PSR (including the "no contact" condition  
11 with codefendant Malepeai, except to exchange their children), along with an order of restitution for  
12 \$6,290.26.

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14 DATED: October 17, 2024

Respectfully submitted,

15 ISMAIL J. RAMSEY  
16 United States Attorney

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18 /s/  
19 ERIC CHENG  
MOLLY K. PRIEDEMAN  
20 Assistant United States Attorneys

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